

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN – SOUTHERN DIVISION

JOHN KOZMA and WENDY KOZMA,
as Co-Guardians of JODI RENEE
KOZMA,

USDC Case No. _____

Plaintiffs,

Hon. _____

v.

Lower Court Case No: 14-005952-CZ

CITY OF LIVONIA, a municipal
corporation, LIVONIA POLICE
DEPARTMENT, SGT. GIBBS,
OFFICER CAMMARATA, OFFICER
SULLIVAN, OFFICER SALTER,
POLICE CHIEF CURTIS
CAID and OFFICER SCHROEDER

and

WAL-MART STORES, INC.,
AMANDA GOLINSKE, AMILCAR
IRELAND, and CHRISTOPHER
PRESTON, II,
Jointly and severally,

Defendants.

*Notice of Filing Removal
Notice of Removal to Federal Court
Verification
Certificate of Service*

Deborah L. Gordon (P27058)
Sarah S. Prescott (P70510)
Attorneys for Plaintiffs
DEBORAH L. GORDON, PLC
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Thomas P. Vincent (P32794)
Gary W. Francis (P64748)
Attorneys for Defendants Wal-Mart
Stores, Inc., Golinske, Ireland and
Preston
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**NOTICE OF FILING REMOVAL
NOTICE OF REMOVAL TO FEDERAL COURT
VERIFICATION
CERTIFICATE OF SERVICE**

Respectfully submitted,

PLUNKETT COONEY

By: /s/THOMAS P. VINCENT

Thomas P. Vincent (P32794)
Gary W. Francis (P64748)
Attorneys for Defendants
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Dated: June 9, 2014

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

JOHN KOZMA and WENDY KOZMA,
as Co-Guardians of JODI RENEE
KOZMA,

Plaintiffs,

Case No: 14-005952-CZ
HON: DAVID J. ALLEN

v.

CITY OF LIVONIA, a municipal
corporation, LIVONIA POLICE
DEPARTMENT, SGT. GIBBS,
OFFICER CAMMARATA, OFFICER
SULLIVAN, OFFICER SALTER,
POLICE CHIEF CURTIS CAID and
OFFICER SCHROEDER

and

WAL-MART STORES, INC.,
AMANDA GOLINSKE, AMILCAR
IRELAND, and CHRISTOPHER
PRESTON, II,
Jointly and severally,

Defendants.

Notice of Filing Removal

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NOTICE OF FILING REMOVAL

TO: Deborah L. Gordon, Esq.
Sarah S. Prescott, Esq.
DEBORAH L. GORDON, PLC
33 Bloomfield Hills Parkway
Suite 220
Bloomfield Hills, MI 48304

Clerk, Wayne County Circuit Court
2 Woodward Avenue
Detroit, MI 48226

PLEASE TAKE NOTICE that Defendants have this day filed a Notice of Removal, a copy of which is attached hereto, with the offices of the Clerk of the United States District Court, Eastern District of Michigan, Southern Division.

Respectfully submitted,

PLUNKETT COONEY

By: /s/Thomas P. Vincent
THOMAS P. VINCENT (P32794)
GARY W. FRANCIS (P64748)
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38505 Woodward Ave., Ste. 2000
Bloomfield Hills, MI 48304
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Dated: June 9, 2014

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing instrument was served upon all parties to the above cause to each of the attorneys of record via the Wayne County Circuit Court E-Filing System and U.S. Mail on **June 9, 2014**.

BY: /s/Gary W. Francis
Gary W. Francis

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN – SOUTHERN DIVISION

JOHN KOZMA and WENDY KOZMA,
as Co-Guardians of JODI RENEE
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SULLIVAN, OFFICER SALTER,
POLICE CHIEF CURTIS
CAID and OFFICER SCHROEDER

and

WAL-MART STORES, INC.,
AMANDA GOLINSKE, AMILCAR
IRELAND, and CHRISTOPHER
PRESTON, II,
Jointly and severally,

Notice of Removal to Federal Court

Defendants.

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NOTICE OF REMOVAL TO FEDERAL COURT

TO: Clerk of the Court
Deborah L. Gordon, Esq.
Sarah S. Prescott, Esq.

NOW COME Defendants, WAL-MART STORES, INC., AMANDA GOLINSKE, AMILCAR IRELAND and CHRISTOPHER PRESTON, II, by and through their attorneys of record, PLUNKETT COONEY, and pursuant to 28 U.S.C. §§ 1331, 1441 and 1446, file this Notice of Removal based upon the following reasons:

1. On or about May 7, 2014, Plaintiff filed and commenced a civil action in the Wayne County Circuit Court, State of Michigan, bearing Docket No. 14-005952-CZ, in which John Kozma and Wendy Kozma, as Co-Guardians of Jodi Renee Kozma, are the Plaintiffs, and the City of Livonia, Livonia Police Department, Sgt. Gibbs, Officer Cammarata, Officer Sullivan, Officer Salter, Officer Schroeder, Wal-Mart Stores, Inc., Amanda Golinske, Amilcar Ireland, and Christopher Preston, II are the Defendants. A copy of the Complaint filed in the Wayne County Circuit Court, Docket No. 14-005952-CZ, is attached as **Exhibit A** to this Notice of Removal.

On or about May 22, 2014, Plaintiff filed a First Amended Complaint in civil action 14-005952-CZ in the Wayne County Circuit Court, State of Michigan, in which John Kozma and Wendy Kozma as Co-Guardians of Jodi Renee Kozma

are the Plaintiffs, and the City of Livonia, Livonia Police Department, Sgt. Gibbs, Officer Cammarata, Officer Sullivan, Officer Salter, Police Chief Curtis Caid, Officer Schroeder, Wal-Mart Stores, Inc., Amanda Golinske, Amilcar Ireland, and Christopher Preston, II are the Defendants. A copy of the First Amended Complaint filed in the Wayne County Circuit Court, Docket No. 14-005952-CZ, is attached as Exhibit B to this Notice of Removal.

2. This action, as alleged in the Complaint and First Amended Complaint, is a suit brought by the Plaintiffs for violation of 42 U.S.C. §1983, violation of Plaintiff's Fourth and Fourteenth Amendment Rights, Intentional Infliction of Emotional Distress, Assault and Battery, and Violation of the Michigan Persons with Disabilities Civil Rights Act.

3. That the Complaint and First Amended Complaint were served upon Defendants Wal-Mart Stores, Inc., Golinske, Ireland, and Preston on May 22, 2014. Therefore, this Notice of Removal is timely filed within thirty (30) after the Complaint was filed and served upon these Defendants on May 22, 2014.

4. The action filed by the Plaintiffs is a civil action in which Plaintiffs allege that the Defendants have violated the rights of Plaintiffs as provided by Federal statute and the United States Constitution. Specifically, Plaintiffs allege, in part, that Defendants violated 42 U.S.C. §1983, including violation of the constitutional rights contained in the Fourth and Fourteenth amendments, for which Plaintiffs seek damages.

5. Pursuant to 28 U.S.C. §1331, a federal district court has original jurisdiction over any civil action commenced to redress the deprivation, under color of any state law, statute, ordinance, regulation, custom, or usage of any right, privileges or immunities secured by the Constitution of the United States or by any act of Congress providing for the equal rights of citizens or all persons within the jurisdiction of the United States.

6. Under 28 U.S.C. §1441(a) and §1443, Defendants are entitled to remove this action, since the district court would have had original jurisdiction over Plaintiffs' claims.

7. A written notice of the filing of this Notice of Removal has been given to all parties as required by law, and a Proof of Service is attached hereto as **Exhibit C.**

8. A written notice of this Removal has been filed with the Clerk of the Court for the Wayne County Circuit Court, State of Michigan, as provided by law and is attached hereto as **Exhibit C.**

9. Based upon the foregoing, Defendant is entitled to removal of this action to the United States District Court for the Eastern District of Michigan under 28 U.S.C. §1441, *et seq.*

10. That all served Defendants consent in this notice of removal as filed with the United States District Court for the Eastern District of Michigan.

WHEREFORE, Defendants respectfully requests that they be allowed to effect removal of the within action from the 3rd Circuit Court for the County of Wayne, State of Michigan, to the United States District Court for the Eastern District of Michigan.

Respectfully submitted,

PLUNKETT COONEY

By: /s/Thomas P. Vincent

THOMAS P. VINCENT (P32794)

GARY W. FRANCIS (P64748)

Attorneys for Defendants

38505 Woodward Ave., Ste. 2000

Bloomfield Hills, MI 48304

PH: (248) 901-4000

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Dated: June 9, 2014

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN – SOUTHERN DIVISION

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and

WAL-MART STORES, INC.,
AMANDA GOLINSKE, AMILCAR
IRELAND, and CHRISTOPHER
PRESTON, II, Jointly and severally,

Defendants.

Verification

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VERIFICATION

THOMAS P. VINCENT, first being duly sworn, states that he is the attorney for Defendants Wal-Mart Stores, Inc., Golinske, Ireland and Preston, and that the foregoing Notice of Removal is true in substance and in fact to the best of his knowledge, information and belief.

Respectfully submitted,

PLUNKETT COONEY

By: /s/Thomas P. Vincent
THOMAS P. VINCENT (P32794)
GARY W. FRANCIS (P64748)
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Certificate of Service

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CERTIFICATE OF SERVICE

I hereby certify that on June 9, 2014, I electronically filed ***Defendants' Notice of Filing Removal, Notice of Removal to Federal Court, Verification and Certificate of Service*** with the Clerk of the Court using the Court's ECF system or, in the alternative, I have mailed copies by the United States Postal Service, with first-class postage fully pre-paid, to any parties that are not ECF participants.

/s/Thomas P. Vincent

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